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By: 

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lal, et al.

Title: HUMAN CYTOSKELETON ASSOCIATED PROTEINS

Serial No.: 09/786,797

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Commissioner for Patents

Box PCT

Washington, D.C. 20231

**RESPONSE TO NOTIFICATION OF A DEFECTIVE RESPONSE AND
SUBMISSION UNDER 37 CFR §1.821- 1.825 OF A SEQUENCE LISTING IN
COMPUTER READABLE FORM**

Sir:

In response to the Notification of a Defective Response, mailed September 10, 2001, and in accordance with the requirements of 37 CFR §1.821- 1.825, Applicants hereby submit a courtesy copy of one (1) diskette containing the computer-readable information for the "Sequence Listing" of the above-identified application. The diskette complies with the requirements of 37 CFR §1.824 and is IBM PC compatible using a UNIX operating system with PERL Program.

The content of the "Sequence Listing" paper copy is identical to the computer readable copy, as required under 37 CFR § 1.821(f).

Applicants note that the requirement for submission of the Oath or Declaration contained in the Notification of a Defective Response is incorrect, as Applicants submitted the Declaration with their initial response to the Notification of Missing Requirements on June 18, 2001. A copy of that paper and the Oath is attached.

Applicants further note that the Request to Transfer the CRF that was submitted with the response to the Notification of Missing Requirements on June 18, 2001 was fully sufficient to completely respond to the Notification of Missing Requirements. No further response should therefore have been required.

Upon receipt of this Notification of a Defective Response, mailed September 10, 2001, Applicants attempted repeatedly to address the errors in the Notification with Pat Booker, the paralegal who issued it, by calling her at 703-305-3738. Her phone was never answered during business hours in California. Instead, she left messages on voicemails of the several people who called her, as she called here very early in the morning, when nobody was here (e.g., at 5:30 AM Pacific Time). This resulted in our being unable to address this incorrect Notification in a timely manner.

Applicants respectfully submit that the fact that the USPTO cannot now locate a copy of the CRF is not the fault of the Applicants, and no extension of time should be required to respond to this Notification, which was incorrect on its face in the first place. Obviously, Applicants submitted the CRF to the US PTO acting in its capacity as the United States Receiving Office (US/RO) for the PCT application of which the present application is the National Stage application, and that CRF should have been transferred to the instant application.

Applicants only relatively recently began using the PCT application process to enter the United States, rather than directly filing in the US. In addressing the issue of supplying a CRF with the US National Stage application, the undersigned was told on April 10, 2001, by Ms. Donna Green, a Manager in the National Stage Processing Office in the US Designated Elected Office, that if we filed a CRF with the PCT application in the US/RO, all we needed to file in the United States National Phase application was a request to transfer the CRF from the PCT application. As the Assignee now files 10-20 PCT applications/month, filing another CRF diskette that should be unnecessary seems to be an undue burden on Applicants, so we were quite happy to comply with this request. Now Applicants are being asked to resubmit the CRF in many of the US National Stage applications in which we presumably already complied with all the requirements. This is not understood.

Therefore, Applicants further respectfully request that the requirements for filing CRFs in the National Stage Processing Office in the US Designated Elected Office, when the USPTO was the

US/RO for the PCT application in the first place, be clarified in the first place, and that the present application should be deemed to have fully complied with the requirements for completing the US National Stage application under 35 U.S.C. § 371(c) as of June 18, 2001, when the initial Response to the Notification of Missing Requirements was filed, including both the Oath and the Request to Transfer the CRF, and that the Notification of a Defective Response be withdrawn. Applicants further request that the attached courtesy copy of the diskette be used to replace the one misplaced by the USPTO, and that the application be forwarded for further processing and examination as soon as possible.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,

INCYTE GENOMICS, INC.

Date: 19 Nov 2001



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